that the purchaser of commercial paper must ascertain at his peril whether the maker of the instrument was drunk or sober at the time of its execution.

COMMERCE—ORIGINAL PACKAGE DOCTRINE—APPLICABILITY TO FOOD AND DRUGS ACT.—The plaintiffs in error were convicted in the state court for violation of a Wisconsin statute providing for the exclusive use of specified labels upon food products of a certain kind sold or offered for sale within the state. WIS. LAWS, 1907, p. 646, ch. 557. They had conformed to an opinion given by the Secretaries of the Treasury, Agriculture, and Commerce and Labor, jointly, designating the form of labels required by the Federal Food and Drugs Act of June 30, 1906 (34 STAT. AT L. 768, ch. 3915; U. S. COMP. ST. SUPP., 1911, p. 1354). The goods in question had been removed from the original package. *Held,* that the statute was invalid as in conflict with the Food and Drugs Act. *McDermott* v. *State of Wisconsin,* (1913) 33 Sup. Ct. Rep. 431, reversing 143 Wis. 18, 126 N. W. 888, 21 Ann. Cas. 1315.

The Food and Drugs Act was passed under the commerce clause of the federal constitution, and its validity upheld on that ground. *Shawnee Milling Co.* v. *Temple,* 179 Fed. 517; *Hipolite Egg Co.* v. *U. S.,* 220 U. S. 45. Congress has the power to determine what are fit articles of interstate commerce. *Lottery Case* (*Champion* v. *Ames*), 188 U. S. 321. But a state retains all police power, and is properly exercising this power by making criminal the adulteration or misbranding of food or drugs. *Barbier* v. *Connolly,* 113 U. S. 27; *Crossman* v. *Lurman,* 192 U. S. 189. Where, in exercising the police power, the enactments of the state legislature conflict with those of Congress, the state legislation inconsistent with the latter is invalid, even though it affects the matter but incidentally. *McCullough* v. *Maryland,* 4 Wheat. 316; *Reid* v. *Colorado,* 187 U. S. 137; *Asbell* v. *Kansas,* 209 U. S. 251; *N. P. Ry. Co.* v. *Washington,* 222 U. S. 370; *So. Ry. Co.* v. *Reid,* 222 U. S. 424. The original package doctrine was first squarely applied to interstate commerce in *Leisy* v. *Hardin,* 135 U. S. 100, although its origin was in the decision of *Brown* v. *Maryland,* 12 Wheat. 419. In substance it provides that articles of interstate commerce continue to be such until they have been sold or taken from their original package. Until that time they are not subject to regulation by the state. *Brown* v. *Maryland,* supra, *Leisy* v. *Hardin,* supra; *Low* v. *Austin,* 13 Wall. 29; *Heyman* v. *So. Ry. Co.,* 203 U. S. 270. While the federal government has plenary power until such time, it would seem that the converse of that proposition, given weight by some authorities, is considerably limited, in view of the decision in the principal case. The decision, however, seems to be based upon sound public policy, and is the only position that could be taken without in a large measure defeating the purpose of the federal Food and Drugs Act. It will be interesting to note the effect of the decision upon the future action of Congress with regard to other articles of commerce.

CONTRACTS—MISREPRESENTATIONS.—Plaintiff, a loan association, was induced to purchase stock of defendant trust company by the promise of the authorized agent of the latter, that within 30 days the defendant would furnish the plaintiff with money to loan on real estate. When called upon to perform the defendant refused. Plaintiff brought suit in equity to cancel the